

REMARKS/ARGUMENTS

Claims 39-48, 52-59, 65-69, 76-80 are presently pending in the application. Regarding the objection to the drawings, Applicants have carefully complied with the language in the Advisory Action by amending the relevant claim and thus request withdrawal of this objection. An attached Replacement Drawing Sheet is submitted herewith. Applicants acknowledge the entering of the language that U.S. Application No. 09/188,072 claims the benefit of, and incorporates by reference the contents of, U.S. Provisional Application No. 60/064,465. Applicants acknowledge, regarding official notice earlier taken, the Office Action's statements that medical grade plastics have been used in medical devices, that stainless steel has been used to construct medical devices, and that sterile fluids have been used in the performance of surgery on internal organs.

Regarding the obviousness rejections, the independent claims in this application recite, for example, "the transmitter axis being (a) non-identical to, (b) non-overlapping with and (c) closer to the inner wall surface than the cannula axis" (claim 54), "the transmitter axis being disposed closer to the inner wall surface than to the cannula axis" (claim 65), and "a transmitter axis positioned closer to the inner wall surface than the cannula axis" (claim 66). The claimed structures are unique and provide unique results. They facilitate a unique rotational advancement through cartilage and hard tissue via generation of a "tunnel" sized (e.g., enlarged) to allow the cannula to be advanced, or to be more easily advanced, therethrough, or to be navigated, or more easily navigated, during or after the tunneling process. Consequently, piercing or cutting cannula tips are not practical or used for the tunneling.

The Paolini disclosure specifically teaches away from laser-cutting connective tissue by iterating that its laser is for lipolysis (see column 3, lines 31-34, 49-53 and 61-67; column 4, lines 4-6, 8-10, 16-22, 26-29, etc.). The Paolini laser cannot cut collagen (see column 1, lines 60-63 "maintains collagen... substantially unaltered or undamaged"; column 2, lines 18-21 "the most important aspect...is the fact that the collagen fibers remain intact...very important"; column 2, lines 18-21 "collagen fibers ... are not damaged...and remain intact"; lines 3, lines 34-37 "intensity and wavelength of the laser...maintains collagen ... substantially unaltered....").

Paolini's laser is limited to settings that cannot cut skin, and its laser settings are not suitable, e.g., too low, to effectuate such cutting. In fact, Paolini appears to distinguish its invention from prior art devices on the precise point of it not cutting or damaging collagen.

It is respectfully submitted that the current independent claims are neither anticipated by nor obvious in view of the prior art of record, and thus are allowable over the prior art of record. Applicants acknowledge that the Examiner has not imposed any type of requirement for a showing (e.g., of criticality) in connection with the presently claimed structure. It is submitted that each of the presently pending dependent claims is allowable at least because of its dependency upon an independent claim, and further because of the additional limitations recited therein. Reconsideration and withdrawal of the rejections under 35 U.S.C. 103(a) is respectfully requested. Applicants submit that the application is now in condition for allowance, and an early indication of same is requested.

The Applicants believe that a telephone conference with Applicants' representative would be helpful to advance the prosecution of the application, and kindly request that the Examiner contact the undersigned by phone to briefly discuss the obviousness rejection.

The Commissioner is hereby authorized to charge any needed fees to deposit account 50-1600.

Respectfully submitted,



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